

No. 9/1/87-6Lab./9100.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s. Khadi Gram Udyog Mandal, Kurukshetra.

BEFORE SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 234 of 1986

between

SHRI RAM KUMAR, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S. KHADI
GRAM UDYOG MANDAL, KURUKSHETRA

AWARD

In exercise of the powers conferred by clause (c) of sub-section 10 of Industrial Disputes Act, 1947, the Hon'ble Governor of Haryana referred the following dispute between Shri Ram Kumar, workman and the respondent-management of M/s. Khadi Gram Udyog Mandal, Kurukshetra, to this Court for adjudication :—

Whether the termination of services of Shri Ram Kumar was justified and in order ? If not, to what relief is he entitled ?

2. Workman Shri Ram Kumar Sharma has stated that he served with the respondent on a permanent job for the last several years but was terminated illegally and without any justification on 30th March, 1985. He prayed for the relief of reinstatement, continuity of service and full back wages. This he had stated in his demand notice dated 12th June, 1982.

3. Respondent management pleaded that the workman had committed certain act of misconduct and he was charge-sheeted on 9th October, 1984 and fact finding enquiry was got conducted and after that further detailed chargesheet was issued,—vide letter No. 1093, dated 27th November, 1984. Enquiry Officer was appointed who issued notice for 9th January, 1985. The workman appeared and participated in the enquiry. He (workman) refused to sign on the proceedings. In the mean time, the applicant/workman further committed act of indiscipline for which chargesheet dated 8th January, 1985 was given. The workman confirmed having received the chargesheet. The Enquiry Officer after concluding the enquiry asked the workman to note down the next date as 8th February, 1985, but the workman refused to do so. Then the Enquiry Officer issued notice to him and he appeared on 8th February, 1985 and he put his signatures in token of his presence. While cross-examining a witness workman lost temper and left the proceedings. Thus, *ex parte* proceedings were ordered and conducted. Subsequent thereto, enquiry officer gave opportunity to the workman to lead evidence. But the workman failed to submit anything and then the enquiry officer submitted his findings and report holding him guilty of the charges. After receipt of the report of the enquiry officer, a show-cause notice was also issued,—vide letter No. 1523, dated 14th February, 1985 which was refused by the workman. Thus final dismissal order was passed and conveyed,—vide letter dated 30th March, 1985 which was duly received by the workman. After receipt of the said letter, applicant came and submitted letter dated 17th April 1985 and his dues were paid. Matter stood closed when the applicant accepted his dues on 4th October 1985. Management in this way justified the dismissal of the workman. Placed on record the copies of enquiry proceedings, etc.

4. Following issues were laid down by my learned predecessor on 13th March, 1987 for decision:—

(i) Whether the termination of services of the workman is illegal and unjustified ? If so, its effect (OPW).

(ii) Relief ?

5. The workman failed to produce any evidence on 30th April, 1987, 28th July 1987, 6th October, 1987 for which dates the case was fixed for evidence on behalf of the workman. It was made clear on 28th July, 1987 that the workman was being granted last opportunity to produce his evidence on 6th October, 1987 i.e. today.

6. Today, no evidence on behalf of the workman was produced. Even the workman was not present. No valid ground had been advanced by the learned representative of the workman. Consequently, request of the learned representative of the workman for further adjournment was declined and refused. Workman evidence was closed by order. Respondent management also closed its evidence without producing its evidence.

7. I have gone through the material on record and opportunity of hearing also given to both the parties. My findings on the issues are as under :—

Issue No. 1

8. The workman has failed to produce any evidence on issue No. 1 which was burdened upon him. In his demand notice he did not disclose that he was charge-sheeted for misconduct and that enquiry was also held. On the other hand, respondent-management has disclosed about it and has categorically stated that the workman was dismissed from service on the proved allegations of misconduct. Management has also placed on the file copies of charge-sheet and other enquiry proceedings, along with written statement. It was for the workman to prove that requisite procedure during the enquiry against him was not followed or that he was not given opportunity of hearing by the enquiry officer. Suffice it to say that the workman has not dared coming in the witness-box for his evidence to prove his initial allegations that his dismissal was illegal and unjustified. It was for the workman to prove *prima facie* that his termination was against the law and procedure. But the workman has failed to prove or step into witness-box.

9. In the result, issue No. 1 is decided against the workman.

Relief

10. In view of definite finding on issue No. 1 against the workman, it is held that he is not entitled to any relief.

11. Reference is answered accordingly.

K. K. DODA,

Dated 6th October, 1987.

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 2437, dated the 26th October, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of I.D. Act.

K. K. DODA,

Presiding Officer,
Labour Court, Ambala.

MEENAXI ANAND CHAUDHRY,

Commissioner and Secretary to Government Haryana,
Labour and Employment Department.

श्रम विभाग

आदेश

दिनांक 12 नवम्बर, 1987

सं० ओ० वि० एफ० डी०/237-87/45241.--चूंकि हरियाणा के राज्यपाल को राखे है कि मै० बैरी सन्ज इण्डिया प्रा० लि०, 1-45, डी. एन. एफ. ऐरिया मयूरा रोड, फरीदाबाद के श्रमिक श्री राम लाल, पुत्र नन्तक राम मार्फत मजदूर सेवक संघ एच. पी. सिंह, राजेन्द्र फर्नलिक रोड, फरीदाबाद तथा प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले के सम्बन्ध में कोई औद्योगिक विवाद है ;

और चूंकि हरियाणा के राज्यपाल इस विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिये, श्रम, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उप धारा (1) के खण्ड (घ) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए हरियाणा के राज्यपाल इसके द्वारा उक्त अधिनियम की धारा 7-क के अधीन गठित औद्योगिक अधिकरण, हरियाणा, फरीदाबाद को नीचे विनिर्दिष्ट मामले जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है अथवा विवाद से सुसंगत या सम्बन्धित मामला है न्यायनिर्णय एवं पंचाट 3 मास में देने हेतु निर्दिष्ट करते हैं :—

क्या श्री राम लाल की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का शूकदार है ?

भार० एस० अग्रवाल,

उप-सचिव, हरियाणा सरकार,
श्रम विभाग ।